

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

JUDY A. DAVIS,)	
)	
Plaintiff,)	
)	
vs.)	Case Number CIV-10-1202-C
)	
MICHAEL B. DONLEY, Secretary)	
Department of the Air Force, et al.,)	
)	
Defendants.)	

MEMORANDUM OPINION AND ORDER

Following her discharge from employment with the United States Air Force, Plaintiff, acting pro se, filed the present action alleging her termination was in violation of Title VII and various other causes of action. Plaintiff's Complaint named several individual Defendants – the EEOC, the Merit Systems Protection Board, and the Secretary of the Air Force. Defendants seek dismissal pursuant to Fed. R. Civ. P. 12(b)(1), arguing that the only properly pleaded claim is for violation of Title VII and the only properly named Defendant is Secretary Donley. Plaintiff responded to the Motion to Dismiss conceding that all Defendants other than Secretary Donley should be dismissed. Plaintiff argues that her claims for violation of 42 U.S.C. § 1981, Oklahoma state law prohibiting wrongful discharge, and Oklahoma Workers' Compensation law should be dismissed. Plaintiff then requests leave of Court to file an Amended Complaint. In Reply, Defendants do not object to Plaintiff filing an Amended Complaint but note that many of the claims Plaintiff wishes to preserve are unsustainable.

After consideration of the parties' briefs and the other pleadings on file, the Court finds that Plaintiff's claims against Eddie Allen; Keith A. Dougherty; Roy A. Piatt, II; LTC Kyle Ingham; Jim Mannon; Jack D. Spencer; Preston Mitchell; and the United States Equal Opportunity Commission should be and are dismissed. Further, Plaintiff's claims under 42 U.S.C. § 1981, Oklahoma state law prohibiting wrongful discharge, and Oklahoma Workers' Compensation law should be and are dismissed. Plaintiff may file an Amended Complaint within 30 days of the date of this Order. In drafting that Amended Complaint, Plaintiff and counsel should consider the issues raised by Defendants in the Motion to Dismiss concerning proper Defendant(s) and justiciable claims. Sanctions will be issued as appropriate.

For the reasons set forth herein, Defendants' Partial Motion to Dismiss (Dkt. No. 46) is GRANTED in part. Defendants Eddie Allen; Keith A. Dougherty; Roy A. Piatt, II; LTC Kyle Ingham; Jim Mannon; Jack D. Spencer; Preston Mitchell; and the United States Equal Opportunity Commission are dismissed with prejudice. Plaintiff's claims under 42 U.S.C. § 1981; Oklahoma state law prohibiting wrongful discharge, and Oklahoma Workers' Compensation law are dismissed without prejudice. An Amended Complaint shall be filed within 30 days of the date of this Order.

IT IS SO ORDERED this 3rd day of December, 2012.


ROBIN J. CAUTHRON
United States District Judge